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*Attorneys for Microsoft Corporation, Microsoft
Licensing, GP, and Microsoft Online, Inc.*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:
	:
SEARS HOLDINGS CORPORATION, <i>et al.</i> ,	:
	:
Debtors.	:
-----X	

Chapter 11
Case No. 18-23538 (RDD)
(Jointly Administered)
Re: Docket No. 1731,1774

CURE OBJECTION BY MICROSOFT

COMES NOW Microsoft Corporation and its wholly owned affiliates,
Microsoft Licensing, GP, and Microsoft Online, Inc. (collectively “Microsoft”), and make this
Cure Objection in response to the *Notice of Cure Costs and Potential Assumption and
Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale
Transaction* (Docket No. 1731, at page 211 of 342) and the *Supplemental Notice of Cure Costs
and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in
Connection with Global Sale Transaction* (Docket No. 1774, at page 26 of 61) as follows:

1. Debtors propose to assume executory contracts with Microsoft relating to licenses and advertising.

Microsoft Licensing

2. Microsoft and Sears Holding Management Corporation are parties to the following agreements:

Agreement	Number
Microsoft Business Agreement	U3128904
Microsoft Enterprise Agreement	E9871383
Microsoft Enterprise Enrollment	55241098
Microsoft Enterprise Enrollment	72210838

3. These agreements (collectively, the “Licenses”) are the contractual vehicles by which Debtors obtained licenses to use Microsoft software and products (“Software”) throughout their enterprise. They enable Debtors to license Microsoft’s copyrighted software and products across their enterprise.

4. Any licenses that Debtors have to Microsoft Software are licenses of copyrighted materials and, therefore, may not be assumed or assigned without Microsoft’s consent. In re Catapult Entertainment, 165 F.3d 747 (9th Cir. 1999) (since federal patent law excused non-debtor licensor from rendering performance, debtor could not assume or assign the non-exclusive patent license without the non-debtor’s licensor’s consent). The analysis of the court in In re Catapult holds true for non-exclusive copyright licenses. See In re Access Beyond Technologies, Inc., 237 B.R. 32, 48, 49 (Bankr. D. Del. 1999) (citing In re West Elec., Inc., 852 F.2d 79 (3d Cir. 1988)); In re Patient Educ. Media, 210 B.R. 237, 243 (Bankr. S.D.N.Y. 1997) (holding that debtor could not assume and assign nonexclusive license without copyright owner’s consent). Microsoft objects to the extent that Debtor may propose assuming or assigning the licenses without Microsoft’s consent.

5. The Cure Amount for the Licenses is **\$35,120.34**, as set forth in the attached

Exhibits:

Exhibit	Invoice No.	Master No.	Enrollment	Document Date	Amount
A	9876965184	E9871383	55241098	5/14/2018	\$3.42
B	9877007952	E9871383	72210838	5/31/2018	\$7.47
C	9877007953	E9871383	72210838	5/31/2018	\$14.94
D	9877163984	E9871383	72210838	7/5/2018	\$246.51
E	9877213436	E9871383	72210838	7/19/2018	\$34,848.00
				TOTAL	\$35,116.92

Microsoft Online

6. Microsoft and certain of the Debtors are parties to a Bing Ad Agreement and certain Insertion Orders.

7. The Cure Amount for Bing Ads is **\$1,562,932.49** as set forth in the attached

Exhibits:

Exhibit	Account ID	Sold To Customer	Pre-Petition Amount
F	2504543	SEARS, ROEBUCK AND CO.	\$1,504,338.65
G	2577489	SEARS, ROEBUCK AND CO.	\$17,576.37
H	2601866	SEARS, ROEBUCK AND CO.	\$41,017.47
		TOTAL	\$1,562,932.49

Health Wellness Solutions

8. Debtors have listed a "Health Wellness Solutions- Microsoft Marketing and Linking Agreement --2014" with a cure amount of **\$16,465.00**. So far, Microsoft has been unable to confirm this agreement or cure amount, and reserves its rights upon further investigation.

Reservation of Rights

9. Microsoft reserves the right to withdraw this cure objection or revise the stated cure amount pending further investigation.

WHEREFORE, Microsoft objects and states that the Cure Amounts are as set forth herein.

DATED January 25, 2018.

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